



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,602	01/28/2002	Mark Ekern	E519-002-PAT	4018

7590 05/17/2004

ATTN: Jeffrey A. Proehl  
Leonard & Proehl  
3500 S. First Ave. Circle  
Ste. 250  
Sioux Falls, SD 57105-5807

EXAMINER

ASHLEY, BOYER DOLINGER

ART UNIT PAPER NUMBER

3724

DATE MAILED: 05/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/058,602

Applicant(s)

EKERN, MARK

Examiner

Boyer D. Ashley

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 is/are allowed.
- 6) ☒ Claim(s) 2-4, 6-12, 16 and 21-25 is/are rejected.
- 7) ☒ Claim(s) 5 and 13-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 3724

## **DETAILED ACTION**

1. This office action is in response to applicant's amendment filed 1/5/03, wherein claims 1-2, 5-6, 8, 10-11, 13, 15 were amended; claims 21-25 were added; claims 17-20 are canceled and therefore, claims 1-16 and 21-25 are pending.

### ***Drawings***

2. The drawings were received on 1/5/03. These drawings are acceptable.

### ***Claim Objections***

3. Claims 1-16 and 21-25 objected to because of the following informalities:

In claim 1, line 8, the phrase "the sheet hooks" should be "the sheet hook" as only one has been set forth. On line 11, "the foot" should be "the foot of the guide" as to clarify which "foot" is being referred to. On line 14, "the bracket" should be "the bracket of the clamp" so as to clarify which "bracket" is being referred to.

In claim 21, line 6, there appears to be a period at the end of the sentence. This period is obviously misplaced and should be removed. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3724

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-4, 6-12, 16, and 21-25 are rejected under 35 U.S.C. 102(b) as anticipated by Stein, U.S. Patent 1,921,489, or, in the alternative, under 35 U.S.C. 103(a) as obvious over Stein.

Stein discloses the same invention as claimed including, e.g., supports having a foot (the two supports shown on the bottom right and left of Figure 4 outside of elements 2 and 3), a lower upright (3) joined to the foot, and an angled upper upright joined to the lower upright (22/21); a carriage (13/6) joined to the supports and adapted to support a workpiece; a guide (8/7) capable of being removably mounted on the workpiece in a manner permitting selective positioning on the guide with respect to the workpiece (the guide 7/8 is pivoted onto and off of the workpiece); and at least one sheet support (9) removably mounted on a lower portion (see Figure 4) of the carriage and positionable along the carriage for supporting a lower edge of the workpiece (the supports 9 are attached to the carriage by c-clamp like structures that inherently allow for adjustable along the carriage).

In the alternative, even if it is argued that Stein lacks the sheet support that is positionable along the carriage, it would have been obvious to one having ordinary skill in the art at the time the invention was made to allow the sheet supports of Stein to be adjustable together or independently in order to accommodate different sized workpieces, because it has been held that the provision of adjustability, where needed, involves only routine skill in the art.

Art Unit: 3724

As to claim 3, the lower uprights of Stein and the modified device of Stein are clearly shown to be rotationally joined to the upper upright as shown in Figure 2.

As to claim 4, the lower uprights of Stein and the modified device of Stein are clearly shown to be joined to the upper upright with a fastener (4) as shown in Figures 2 and 4.

As to claim 6, the carriages of Stein and the modified device of Stein are clearly shown to be comprises of substantially horizontal members (13 and 6) as shown in Figures 1-4.

As to claim 8, the horizontal members of Stein and the modified device of Stein are capable of being removed and mounted to the supports by merely disassembly of the devices.

As to claim 9, the horizontal members of Stein and the modified device of Stein are joined to the supports via connectors (4, 16,20,19,17).

As to claims 10-11 and as stated above, Stein and the modified device of Stein discloses sheet hooks that are capable of being removed and mounted to the horizontal members of the carriage as well as being adjustable relative to the horizontal members. The sheet hooks as shown in Figures 1 and 4 have platform areas for supporting a workpiece (see column 2, lines 60-70).

As to claim 7, Stein and the modified device of Stein discloses the invention substantially as claimed except for the horizontal members being 2x4's. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use 2x4's for creating the carriage for the purpose of reducing costs while maintaining

Art Unit: 3724

ease of assembly because the examiner takes official notice of the equivalence of the carriage material of Stein and the modified device of Stein with that of wood (2x4's) for their use in the supporting art and the selection of any of these known equivalents to create a supporting structure would be within the level of ordinary skill in the art. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use 2x4's for the supporting elements of Stein and the modified device of Stein in order to reduce overall cost of manufacture while maintaining ease of assembly of the Stein and modified device of Stein, because since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

As to claim 12, Stein and the modified device of Stein discloses a guide with a foot (7) and a clamp (lower portion beyond 8 and opposite 7) joined to a straight edge (the end of 7 that contacts the workpiece).

As to claim 16, Stein and the modified device of Stein is clearly capable of being used with sheet goods.

As to claims 21-22 are discloses by Stein and the modified device of Stein as explained above in regard to other claims.

As to claim 23, Stein and the modified device of Stein both disclose guide with a foot (the portion beyond 8 attached to the carriage by bolts as shown in Figure 4), a straight edge (the portion partially labeled 7 on the left in Figure 4) and clamp having a bracket (the connection 8) selectively securable to a post (the pin in the aperture of the bracket connection) and hook (7).

As to claim 24, the carriage of Stein and the modified device of Stein includes a support surface as shown in Figures 1-4, wherein a portion of the at least one support

Art Unit: 3724

surface (9) extends substantially perpendicular to the support surface of the carriage (see Figures 1-4).

As to claim 25, see the comments above with regard to claim 7.

### ***Allowable Subject Matter***

7. Claim 1 appears to be allowable over the prior art of record.
8. Claims 5 and 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

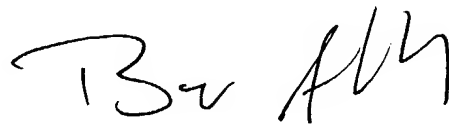
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 703-308-1845. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Boyer D. Ashley  
Primary Examiner  
Art Unit 3724

BDA  
4/8/04